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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/812,833

03/30/2004

Erwin Haller

08146.0001U1

3114

23859

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02/09/2009

Ballard Spahr Andrews & Ingersoll, LLP
SUITE 1000
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ATLANTA, GA 30309-3915

EXAMINER

WUJCIAK, ALFRED J

ART UNIT

PAPER NUMBER

3632

MAIL DATE

DELIVERY MODE

02/09/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/812,833	Applicant(s) HALLER, ERWIN	
	Examiner Alfred Joseph Wujciak III	Art Unit 3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 November 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 and 15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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This is the final Office Action for the serial number 10/812,833, DEVICE AND METHOD FOR SPRINGING A VEHICLE SEAT, filed on 3/30/04.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 2-10, line 1, "Spring device" is indefinite because it is not being cited in independent claim 1. It should be changed to ---Apparatus--- for clarification.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 7-8 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent # 4,946,145 to Kurabe.

Kurabe teaches a vehicle seat (11) comprising a seat part (12) and a lower part (14). The vehicle seat has a desired of comfort range of travel and two out of comfort ranges of travel. The vehicle seat comprises at least one air spring (34) and a control device (74). Wherein an

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additional air volume is supplied to the air spring when the vehicle seat is in the comfort range of travel, and at a selectable run in/out position of the air spring, the additional air volume is switched off when the vehicle seat goes from the comfort range of travel to the out of comfort range of travel, under control of the control device, such that the volume in which the air to be compressed is less in the out of comfort range than in the comfort range of travel and the inclines in the profile of a force-path air spring characteristic of the air spring in a first and in at least one further range are different from one another (column 2, lines 7-68 and columns 6-11). In the range of the force-path air spring characteristic, the additional air volume that can be supplied or discharged is greater or smaller than in the range or is completely switch off. The additional air volume in the further range can be supplied to or discharged from the air spring in each case in a number of stages. The apparatus includes at least one pneumatic directional control valve (40) for supplying/discharging the additional air volume. The automatic height adjustment of the seat part at the start of a use operation by a user having a predefined weight (column 1, lines 6-11) wherein air is supplied to or discharged from the air spring under control of the control device such that the air spring adjusts to a central position in the first range of the force path air spring characteristic (column 2, lines 6-43). The apparatus includes an operating device (78) operable by the user to operate the control device such that the seat part is adjusted to the desired height. The apparatus includes a recognition device (64) and switching devices (50 and 52).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6, 9, 11-13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kurabe.

Kurabe teaches a vehicle seat (11) comprising a seat part (12) and a lower part (14). The vehicle seat has a desired of comfort range of travel and two out of comfort ranges of travel. The vehicle seat comprises at least one air spring (34) and a control device (74). Wherein an additional air volume is supplied to the air spring when the vehicle seat is in the comfort range of travel, and at a selectable run in/out position of the air spring, the additional air volume is switched off when the vehicle seat goes from the comfort range of travel to the out of comfort range of travel, under control of the control device, such that the volume in which the air to be compressed is less in the out of comfort range than in the comfort range of travel and the inclines in the profile of a force-path air spring characteristic of the air spring in a first and in at least one further range are different from one another (column 2, lines 7-68 and columns 6-11). In the range of the force-path air spring characteristic, the additional air volume that can be supplied or discharged is greater or smaller than in the range or is completely switch off. The additional air volume in the further range can be supplied to or discharged from the air spring in each case in a number of stages. The apparatus includes at least one pneumatic directional control valve (40) for supplying/discharging the additional air volume. The automatic height adjustment of the seat part at the start of a use operation by a user having a predefined weight (column 1, lines 6-11) wherein air us supplied to or discharged from the air spring under control of the control device such that the air springs adjusts to a central position in the first range of the force path air spring

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characteristic (column 2, lines 6-43). The apparatus includes an operating device (78) operable by the user to operate the control device such that the seat part is adjusted to the desired height. The apparatus includes a recognition device (64) and switching devices (50 and 52).

Kurabe teaches all elements above but fails to teach the use of elements in method. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have specified elements in steps to provide designer's preference for setting up the elements to operate the seat in comfort/out of comfort ranges to satisfy the user when driving the vehicle.

Regarding to claim 6, Kurabe teaches a regular switch (78) but fails to teach the regular switch is located in the arm rest of the vehicle seat. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have modified the location of regular switch to the armrest of the seat to provide convenience for a user to reach the switch on the armrest instead on the seat part.

Regarding to claim 9, Kurabe teaches the additional air volume can be supplied and discharged in the first range of force path air spring characteristic but fails to specify amount of liter for air to be supplied or discharged at 0.0-0.1 liter. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have specified the amount of liter for air to be supplied or discharged at 0.0-0.1 liter to provide designer's preference for the amount of liter to be used in the first range of the force-path air spring characteristic.

Response to Arguments

Applicant's arguments with respect to claims 1-13 and 15 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alfred Joseph Wujciak III whose telephone number is (571) 272-6827. The examiner can normally be reached on 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. Allen Shriver can be reached on 571-272-6698. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Alfred Joseph Wujciak III/
Primary Examiner, Art Unit 3632
2/5/09